

## Title VI: Nondiscrimination in Federal-aid



Maryland Department of Transportation



### SELECTED TITLE VI AUTHORITIES

#### NONDISCRIMINATION STATUTES

- **Title VI of the 1964 Civil Rights Act**, 42 U.S.C. 2000, provides in section 601 that:

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (PROHIBITS DISCRIMINATION IN IMPACTS, SERVICES, AND BENEFITS OF, ACCESS TO, PARTICIPATION IN, AND TREATMENT UNDER A FEDERAL-AID RECIPIENT’S PROGRAMS OR ACTIVITIES)

- **The Age Discrimination Act of 1975**, as amended 42 U.S.C. 6101, provides:

“No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (PROHIBITS DISCRIMINATION BASED ON AGE)

- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, 42 U.S.C. 4601, provides:

“For the fair and equitable treatment of persons displaced as direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance.” (PROVIDES FOR FAIR TREATMENT OF PERSONS DISPLACED BY FEDERAL AND FEDERAL-AID PROGRAMS AND PROJECTS)

- **The Federal-aid Highway Act**, 49 U.S.C. 306

Outlines the responsibilities of the U.S. Department of Transportation and, at (c) outlines the Secretary’s authority to decide whether a recipient has not complied with applicable Civil Rights statutes or regulations, requires the Secretary to provide notice of the violation, and requires necessary action to ensure compliance.

- **The 1973 Federal-aid Highway Act**, 23 U.S.C 324, provides:

“No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this title.” (PROHIBITS DISCRIMINATION ON THE BASIS OF SEX)

- **The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides:

Clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. (RESTORES THE BROAD, INSTITUTION-WIDE SCOPE AND COVERAGE OF THE NONDISCRIMINATION STATUTES TO INCLUDE ALL PROGRAMS AND ACTIVITIES OF FEDERAL-AID RECIPIENTS, SUB-RECIPIENTS AND CONTRACTORS, WHETHER SUCH PROGRAMS AND ACTIVITIES ARE FEDERALLY ASSISTED OR NOT)

- **The Uniform Relocation Act Amendments of 1987**, P.L. 101-246, provides:

“For fair, uniform, and equitable treatment of all affected persons; ...(and) minimizing the adverse impact of displacement...(to maintain)...the economic and social well-being of communities; and... to establish a lead agency and allow for State certification and implementation.” (UPDATED THE 1970 ACT AND CLARIFIED THE INTENT OF CONGRESS IN PROGRAMS AND PROJECTS WHICH CAUSE DISPLACEMENT)

- **The Americans with Disabilities Act**, P.L. 101-336, provides:

“No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government.” (PROVIDED ENFORCEABLE STANDARDS TO ADDRESS DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES)

- **The Civil Rights Act of 1991**, in part, amended Section 1981 of 42 U.S.C. by adding two new sections that provided:

“(b) For the purposes of this section, the term ‘make and enforce contracts’ includes the making, performance, modification, and termination of contracts and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) The rights protected by this section are protected against impairment by non-governmental discrimination and impairment under color of State law.”

- **Title VIII of the 1968 Civil Rights Act**, 42 U.S.C. 3601, provides that:

“(I) It shall be unlawful...to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion or national origin.” (PROHIBITS DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING – HUD is the primary interest agency, but FHWA and States under Title VI are responsible for preventing discrimination in the function of Right-of-Way)

- **The National Environmental Policy Act of 1969**, 42 U.S.C. 4321

Requires the consideration of alternatives, including the “no-build” alternative, consideration of social, environmental and economic impacts, public involvement, and use of a systematic interdisciplinary approach at each decision making stage of Federal-aid project development.

- **Title IX of the Education Amendments of 1972**

Makes financial assistance available to institutions of higher education to: (1) strengthen, improve and, where necessary, expand the quality of graduate and professional programs leading to an advanced degree; (2) establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and (3) assist in strengthening undergraduate programs of instruction in certain instances.

- **Section 504 of the Rehabilitation Act of 1973**, 29 U.S.C. 790, provides that:  
“(N)o qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.” (PROHIBITS DISCRIMINATION BASED ON PHYSICAL OR MENTAL HANDICAP)

### **NONDISCRIMINATION EXECUTIVE ORDERS**

- **E.O. 12250** - DOJ Leadership and Coordination of Nondiscrimination Laws.
- **E.O. 12259** - HUD Leadership and Coordination of Federal Fair Housing Programs.
- **E.O. 12292** - Amended E.O. 12259, in part and addressed leadership and coordination in Federal Fair Housing Programs. It affirmatively furthers fair housing in all Federal programs and activities relating to housing and urban development throughout the United States.
- **E.O. 12898** - Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations.
- **E.O. 13160** - nondiscrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs.
- **E.O. 13166** - August 11, 2000- requires Federal agencies and their recipients to improve access to federally sponsored programs for persons with limited English proficiency.
- **E.O. 13175** – Consultation and Coordination with Indian Tribal Governments.

### **NONDISCRIMINATION REGULATIONS**

- **23 CFR Part 200** - FHWA's Title VI Program Implementation and Review Procedures.
- **23 CFR Part 420.121(h)** - the part of FHWA's planning regulations that specify the applicability of Title VI of the 1964 Civil Rights Restoration Act of 1987 to FHWA funded planning and research activities.
- **23 CFR Part 450** - FHWA's and FTA's Statewide and Metropolitan Planning Regulations.
- **23 CFR Part 450.316(b) (2) & (3)** - requires the metropolitan planning process to be consistent with Title VI of the 1964 Civil Rights Act and the recipient's Title VI Assurances.
- **23 CFR Part 633, Subpart A** - specifies required contract provisions to be included in all Federal-aid construction contracts, including Title VI and other proscriptions included in Form FHWA 1273.

- **23 CFR Part 633, Subpart B, Appendix A** - specifies the types of contracts to which Title VI of the 1964 Civil Rights Act applies.
- **23 CFR Part 771.105(f)** - FHWA Policy on Title VI - expands on 23 CFR 200.7 and names categories covered with wording similar to Title VI of the Civil Rights Act of 1964 - race, color, national origin, age, sex, handicap.
- **28 CFR Part 35** - the Department of Justice's regulations governing Nondiscrimination on the basis of disability in State and local government services.
- **28 CFR Part 41** – requires the Department of Justice to coordinate the implementation of Section 504 of the Rehabilitation Act (Provides guidelines for determining discretionary practices).
- **28 CFR Part 42, Subpart C** - DOJ's regulation implementing Title VI of the Civil Rights Act of 1964.
- **28 CFR Part 42.200, Subpart D** - "Nondiscrimination in Federally-assisted Programs - Implementation of Section 815 (c)(1) of the Justice System Improvement Act of 1979" – Also implements Executive Order 12138.
- **28 CFR Part 50.3** - DOJ's Guidelines for the enforcement of Title VI, Civil Rights Act of 1964
- **49 CFR Part 21** - DOT's Implementing Regulations of Title VI of the Civil Rights Act of 1964
- **49 CFR Part 24** - DOT's regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and federally assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.
- **49 CFR Part 25** - DOT's implementation of Title IX of the Education Amendments Act of 1972.
- **49 CFR Part 26** - Participation by Disadvantaged Business Enterprises in DOT Financial Assistance Programs.
- **49 CFR Part 27** - DOT's regulation implementing Section 504 of the Rehabilitation Act of 1973 as amended.
- **49 CFR Part 28** - Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- **49 CFR Part 37** - Transportation Services for Individuals with Disabilities, implementing the transportation and related provisions of Title II and III of the ADA.

#### **NONDISCRIMINATION DIRECTIVES & GUIDANCE**

- **DOT ORDER 1000.12** - Implementation of the DOT Title VI Program.

- **DOT ORDER 1050.2** - Standard Title VI Assurances.
- **DOT ORDER 5610.2** - USDOT Order on Environmental Justice.
- **FHWA ORDER 4710.1** - Right-of-Way Title VI Review Program.
- **FHWA ORDER 4710.2** - Civil Rights Compliance Reviews of Location Procedures.
- **FHWA ORDER 4720.6** - Impact of the Civil Rights Restoration Act of 1987 on FHWA Programs September 2, 1992.
- **FHWA ORDER 6640.23** - Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (See also DOT Order 5610.2 on Environmental Justice).
- **Joint FHWA/FTA Memo dated October 7, 1999** (published in the Federal Register May 19, 2000) - providing guidance on implementing Title VI in Metropolitan and Statewide Planning.
- **DOT Policy Guidance Document dated December 14, 2005** – Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) persons, - Federal Register Vol. 70 No. 239 (DOT’s initial LEP guidance regarding recipients’ obligation was released on January 22, 2001).
- **DOJ Policy Guidance Document dated October 26, 2001** - Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency.
- **DOJ Policy Guidance Document dated January 11, 2002** - Memo re: E.O. 13166, Improving Access to Services for persons with Limited English Proficiency.
- **DOJ Policy Guidance Document dated January 18, 2002** - Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.
- **DOJ Policy Guidance Document dated April 18, 2002** - Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons – Federal Register Vol. 67, No 75.

### **NONDISCRIMINATION MANUALS & REPORT**

**DOJ’s Title VI Legal Manual** (<http://www.usdoj.gov/crt/cor/cord/vimannual.pdf>).

**DOJ’s Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes**  
(<http://www.usdoj.gov/crt/cor/Pubs/manuals/complain.pdf>).

**Federal Title VI Enforcement to Federally-assisted Programs**, June 1996 Report of the U.S. Commission on Civil Rights.